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*Attorneys for Defendants Jeremy Branham,
Mark Womer and the Nevada Department
of Corrections*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ROBERT GERHARDSON,

Plaintiff,

v.

JEREMY BRANHAM, et al.,

Defendants.

Case No.

NOTICE OF REMOVAL

TO: THE UNITED STATES DISTRICT COURT OF THE DISTRICT OF NEVADA

Defendants Jeremy Branham, Mark Womer, and the Nevada Department of Corrections (collectively "Defendants"), by and through their attorneys, Catherine Cortez Masto, Attorney General of the State of Nevada, and Janet E. Traut, Senior Deputy Attorney General, hereby notice removal of this action to the United States District Court, and, in support thereof, state:

1. Defendants are named in an action which commenced in the First Judicial District Court of the State of Nevada in and for Carson City assigned Case No. 10 TRT 00023 1B and now pending in that state District Court.

2. Service of a Summons and a copy of the Complaint was made upon Defendant Branham on or about March 31, 2010. Service of a Summons and a copy of the Complaint was made upon Defendant Womer on or about April 11, 2010. Service of the summons and

1 complaint upon the Nevada Department of Corrections (NDOC) was completed on April 5,
2 2010.

3 3. The Complaint alleges violations of Plaintiff's civil rights pursuant to 42 U.S.C.
4 § 1983, as well as additional state torts.

5 4. This Court has original jurisdiction over the subject matter of this action under
6 the provisions of 28 U.S.C. § 1331 arising under 42 U.S.C. § 1983. Actions over which the
7 federal court has original jurisdiction may be removed from state courts to the district court in
8 the place where the action is pending, pursuant to 28 U.S.C. § 1441. Furthermore, civil rights
9 cases may be removed to the district court where the allegations concern an act or refusal to
10 act under color of authority pursuant to 28 U.S.C. § 1443.

11 This section 1983 action is pending in the First Judicial District Court of the State of
12 Nevada in Carson City, and is appropriately removed to the District of Nevada under 28
13 U.S.C. §§ 1331 and 1441. In this case, Plaintiff alleges that all the Defendants are acting
14 "under color of law." Exhibit B, p. 1. Therefore, removal pursuant to 28 U.S.C. § 1443 is
15 appropriate as well. Defendants are entitled to remove this action to this Court.

16 5. The federal district court has supplemental jurisdiction over claims concerning
17 the same case or controversy as the federal question. 28 U.S.C. § 1367(a).

18 6. The Civil Cover Sheet is attached and marked as Exhibit A.

19 7. Copies of the Civil Rights Complaint and Summons from the state District Court
20 file are attached and marked respectively as Exhibits B and C, constituting all of the papers
21 and pleadings served on Defendants.

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1 Based on the foregoing, Defendants remove the above action now pending in the First
2 Judicial District Court of the State of Nevada in and for Carson City as Case No. CF-0703012
3 to this Court.

4 Respectfully submitted this 30th day of April, 2010

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6 CATHERINE CORTEZ MASTO
Attorney General

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8 By: 

JANET E. TRAUT
Senior Deputy Attorney General
Bureau of Public Affairs
Business & Licensing Division

Attorneys for Defendants

CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on this 30th day of April, 2010, I have caused a copy of the foregoing **NOTICE OF REMOVAL** to be served, by CM-ECF e-mailing a true copy to:

Jeffrey A. Dickerson, Esq.
jeff@gbis.com

A handwritten signature in blue ink, reading "Jant E. Hunt", is written over a horizontal line.

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2 JANET E. TRAUT
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7 *Attorneys for Defendants Jeremy Branham,*
8 *Mark Womer and the Nevada Department*
of Corrections

9 UNITED STATES DISTRICT COURT
10 DISTRICT OF NEVADA
11

12 ROBERT GERHARDSON,) Case No.
13 Plaintiff,)
14 v.)
15 JEREMY BRANHAM, et al.,)
16 Defendants.)

INDEX OF EXHIBITS
TO
NOTICE OF REMOVAL

18	EXHIBIT A	Civil Cover Sheet	
19	EXHIBIT B	Complaint	
20	EXHIBIT C	Summons for the State of Nevada received at the Office of the Attorney General	